

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CM-24115-CII of 2017 in/and
FAO-4712 of 2017 (O&M)
Date of decision: 15.11.2017

Chiranjeev Ahluwalia

.... Appellant

Versus

J.S.Dhillon and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Amandeep Kaur, Advocate
for the appellant.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 07.02.2014 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal').

The appeal is accompanied by an application under Section 5 of the Limitation Act for condonation of delay of 850 days in filing the appeal. Earlier application was filed without giving any details by simply stating the reason that after the decision of the claim petition, the appellant was again admitted in the hospital and was operated, there was huge medical expenditure incurred on the treatment of the appellant. Applicant consulted the counsel about filing of appeal by that time a delay of 850 days in filing the appeal had occurred.

After arguing for sometime, learned counsel for the applicant

took time to file application with better particulars.

Therefore, the present application has been filed. In the present application, the reasons mentioned are reproduced below :-

“That the appellant had met with a roadside accident on 08.11.2010 and received serious injuries. He was 18 years of age at the time of accident. He was a student of 10+2. He remained on bed for about 8 months and was being attended by his family members. He received serious injuries i.e. left knee injury ligament fracture and other multiple injuries. He was treated in various hospital i.e. GMCH Sector 32, Chandigarh, PGI Chandigarh. Thereafter he was also treated in Sehgal's Nursing Home. Till the pendency of the claim petition, but his agony did not end here and after a period of even six years, from the date of accident he was again admitted in Sportsmen Hospital, Mumbai, where he was admitted on 08.06.2016 and was operated upon whereby arthroscopic left knee ACL reconstruction, medial meniscectomy, ITB tenodesis was done under the renowned surgeon namely Dr. Anant Joshi and thereafter he was discharged on 11.06.2016. He incurred a sum of

Rs.2,87,000/- which he is entitled for complete reimbursement and initially he did not intend to file any appeal, but due to this huge expenditure and the pain which he had gone through, he is filing the present appeal. But in this process a delay of 850 days in filing the appeal has been caused.”

The facts relevant for the decision of the present application are that Chiranjeev Ahluwalia, aged 18 years, met with a motor vehicular accident that occurred on 08.11.2010. He was hit by a Tata Safari bearing registration No.DL-8C-NA-4424. As a result of the accident, his left knee was injured, ligament was fractured and he suffered other multiple injuries.

Claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed on 18.08.2011. The Tribunal, after considering the material produced before it, awarded a sum of Rs.2,79,194/- along with interest @ 7.5% per annum.

The award was passed on 07.02.2014 and appeal was filed on 12.09.2016. For the period of delay i.e. from 2014 to 08.06.2016, not even a word has been mentioned in the application.

The appeal has been filed after delay of 850 days. The period of limitation for filing the appeal had already expired in May 2014. In the application, no explanation has been given for the said period of delay.

The only explanation put forth in the present application is that the applicant was admitted in Sportsmen Hospital, Mumbai on 08.06.2016

where he was operated upon. The ground taken in the application for condonation of delay is as the expense had been incurred in 2016 for the same very injury, therefore, the delay should be condoned.

The proceedings are under the welfare legislature but the legislation cannot be stretched to a position that the limitation provided under the statute should be given a go-bye. A cursory perusal of the award shows that the Tribunal had awarded compensation for medical expenses incurred, for permanent disability, for loss of matrimonial prospects, for transportation charges, for pain and suffering and on account of special diet. Had there been any grievance against the award the same would have been challenged in 2014 itself. It was open for the applicant to prove and to show that even till the passing of the award, the recovery was not complete and he required some future treatment also. The courts are fully empowered to grant compensation for future treatment. No such grievance was made by the applicant against the award. The deposition of the doctor was on record which stated that the patient will have degenerative postoarthritis of the knee later on, the patient will have difficulty in running and sports activities and squatting. The claimant was satisfied with the award and had not challenged the award.

Learned counsel for the applicant relies upon decision of this Court in **Mrs. Vijay Batra Vs. Punjab Roadways, Nawanshahar and ors., 2015(8) R.C.R. (Civil) 592** where in delay of 999 days has been condoned.

The said decision is of no help in the present case. In that case the claimant suffered a head injury and had undergone a brain surgery. It

had specifically come on record that he had no knowledge of passing the award as none was appearing on his behalf and his wife had not received the copy of the award.

The Hon'ble Apex Court has time and again held that the liberal approach should be adopted for condonation of delay. At the same time, the Hon'ble Apex Court in **Oriental Aroma Chemical Industries Ltd. vs. Gujarat Industrial Development Corporation and another, 2010(5) SCC 459**, has held as under :-

*“We have considered the respective submissions.
The law of limitation is founded on public policy.
The legislature does not prescribe limitation with
the object of destroying the rights of the parties
but to ensure that they do not resort to dilatory
tactics and seek remedy without delay. The idea is
that every legal remedy must be kept alive for a
period fixed by the legislature. To put it
differently, the law of limitation prescribes a
period within which legal remedy can be availed
for redress of the legal injury. At the same time,
the courts are bestowed with the power to condone
the delay, if sufficient cause is shown for not
availing the remedy within the stipulated time. The
expression "sufficient cause" employed in [Section
5 of the Indian Limitation Act, 1963](#) and similar*

other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate”

In the above decisions of the Hon'ble Apex Court has held that where the delay is inordinate a strict view and more conscious approach should be adopted.

The Hon'ble Apex Court in **Basawaraj v.Land Acquisition Officer, (2013) 14 SCC 81** has held as under:-

“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable

standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose."

It has been held that party should not have remained inactive.

Similarly, in **Vedabai @ Vijayantabai Babura Patil vs. Shantram Babura Patil, AIR, 2001 (SC), 2582**, the Hon'ble Apex Court has held that where the delay is inordinate more than cautious approach should be adopted. It was further held that the Court has to exercise its

discretion on the facts of each case.

In the present case, the applicant remained inactive from 07.02.2014 to 08.06.2016. The application has been filed on the basis as if the admission in hospital in 2016 was a fresh cause of action and limitation was to be counted from that day. The fact remains that the limitation for filing the appeal expired in May 2014.

A Division Bench of this Court in **Municipal Committee (Now Municipal Corporation), Bathinda vs. Bachan Singh, (P&H) (DB), 2017 (3) R.C.R.(Civil) 145** has held as under:-

10. Adverting to the factual matrix in this case seeking condonation of inordinate delay of 1760 days in filing and 85 days in refiling the appeal, we do not find any merit in the same. The question regarding whether there is sufficient cause or not depends upon each case and primarily is a question of fact to be considered taking totality of events which had taken place in a particular case. In the present case after appreciating the matter it cannot be said that there was sufficient cause for condonation of delay. The learned Single Judge decided the matter on 11.5.2011 and the appeal was required to be filed within the stipulated period of limitation of thirty days. But the appellant has filed the appeal on 5.4.2016 and

refiled on 10.8.2016, after a colossal delay of 1760 days. The explanation of the appellant praying for condonation of delay in filing and refiling the appeal, as noticed here in above, is bereft of sufficient cause for delay caused in filing the appeal. Moreover, even after the judgment dated 26.11.2014 was passed accepting the appeal against the judgment on the basis of which order was passed in the present case, the Letter Patent Appeal was filed on 5.4.2016, i.e., after about one year and four months. There is no satisfactory explanation for this delay as well. The Government department is supposed to pursue its litigation with due diligence. A stale matter cannot be revived by approaching the Court belatedly.

11. In view of the above, finding no merit in the applications for condonation of 1760 days' delay in filing and 85 days' in refiling the appeal, the same are hereby dismissed and consequently, the appeal is dismissed as time barred.

In the above decision, the Courts have refused to condone the delay where the explanation put forth was not satisfactory.

The Hon'ble Apex Court in **Pundlik Jalam Patil (D) by LRs**

Vs. Executive Engineer Jalgaon Medium Project and another, 2008 (17)

SCC 448, where there was 1724 days' delay in filing the appeal, held as under :-

“It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and `do not slumber over their rights.”

In the present case, it is not question of satisfactory explanation rather there is no explanation given for the period from 2014 to 2016.

In such circumstances, no sufficient cause has been shown to condone the delay. The application for condonation of delay being without any merit is dismissed.

Consequently, the main appeal is dismissed as time barred.

(AVNEESH JHINGAN)
JUDGE

15.11.2017

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1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes